

## BOARD OF FORESTRY AND FIRE PROTECTION

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### BOARD OF FORESTRY AND FIRE PROTECTION March 1 and 2, 2005 Sacramento, California

#### BOARD OF FORESTRY MEMBERS PRESENT:

Stan Dixon, Chairman  
Kirk Marckwald, Vice Chair  
Mark Bosetti  
Susan Britting  
David Nawi  
Tharon O'Dell  
Gary Rynearson  
Nancy Drinkard

#### BOARD STAFF:

George Gentry, Executive Officer  
Eric Huff, Executive Officer, Foresters Licensing  
Chris Zimny, Regulations Coordinator  
Mark Hite, Committee Staff  
Laura Estrada, Executive Assistant

#### DEPARTMENTAL STAFF:

Bill Snyder, Deputy Director, Resource Management, Forestry and Fire Protection  
Bill Stewart, Chief FRAP, Forestry and Fire Protection  
Dennis Hall, Deputy Chief, THP Administration, Forestry and Fire Protection  
Duane Shintaku, Assistant Deputy Director, Forest Practice, Forestry and Fire Protection

#### CALL TO ORDER

Chairman Dixon called the March 2005 meeting of the Board of Forestry and Fire Protection to order.

#### REPORT OF EXECUTIVE SESSION

Chairman Dixon commented that there were no actions taken in executive session.

#### APPROVAL OF MINUTES

Chairman Dixon asked for Board approval of the January and February minutes.

**05-3-2**-Member Nawi moved to approve the January and February minutes with a few minor editorials.  
Member Drinkard seconded the motion, and all were in favor.

## **CONSENT CALENDAR**

Nothing to report for this month.

## **REPORT OF THE CHAIRMAN**

Chairman Dixon announced that he attended the FRAP Policy Statement Public Hearing that was held on February 23, 2005 in the San Bernardino Unit. He indicated that it was an excellent meeting and commended the staff on a job well done.

## **REPORT OF THE DIRECTOR**

Mr. Bill Snyder, Deputy Director, Resource Management, Forestry and Fire Protection announced that the Director has been appointed to Chair of the Fire Alliance.

Mr. Snyder also mentioned that the Director wanted to tell the Board members "congratulations and welcome back", regarding the Governor's reorganization plan. The Director was glad to see this was taken off the table.

Proposition 40 grant proposals were received by the Department. The Director will going through those proposals and will be making a decision on which projects to fund. Prop 40 was given to the Department to assist communities in fuel reduction activities as well as to protect watersheds and applies to seventeen Counties.

The Director is progressing on the JDSF ADEIR and the department should have something to the Sub-Committee in a final form in terms of an administrative draft by the end of March.

The Department is initiating efforts to re-write the programmatic Vegetation Management EIR. The Department has contacted UC Davis and they agreed to help them with the initial scoping pieces and have also started to work on the contract for the narrative piece. The actual writing of the EIR will combine CDF staff work with the consultant to get a final product out.

Pacific Lumber was engaged in conversations with the North Coast Boards relative to a waiver on Elk River and Freshwater. The North Coast Executive Officer indicated that they were going to allow Pacific Lumber to move forward on about fifty percent of the plans that had been approved in Freshwater and Elk River. The Department has indicated willingness in helping both parties to move forward and to get some resolution.

## **REPORT OF THE DEPARTMENT**

Mr. Chris Browder, THP Administrator, Resource Management, Department of Forestry and Fire Protection, went over the report to the Board on the Review of Recently Implemented Forest Practice Rule Modifications. In addition, he mentioned that Mr. Dennis Hall feels it is important to implement these changes. Mr. Browder announced that in May of 2002, the Board of Forestry and Fire Protection adopted a policy for the review of the most recent changes to the Forest Practice Rules. The policy outlined several tasks for CDF to carry out in order to ensure the rules were being applied in the manner the Board envisioned upon their adoption.

Those items included posting recently approved language on the Department's web site, distributing a mass mailing notifying interested parties of the recent rule changes, publishing and circulating the "California Forest Practice Rules", reporting to the Board on recent training and education efforts intended to assist in the implementation of new rules and to report to the Board on issues or concerns relevant to the implementation of recently adopted rules.

Mr. Browder also went over the database that CDF has on-line for public access to current THP status records. He indicated that it is intended to provide the public with the most up-to-date information related to plans under CDF's review. In addition, he went over Public Outreach and other programs CDF Foresters are involved with.

### **REPORT OF THE EXECUTIVE OFFICER**

Mr. George Gentry, Executive Officer for the Board, reported on the FRAP Policy Statement Hearing that took place February 23, 2005, in San Bernardino. He commended the San Bernardino Unit for the excellent job they did in hosting the Board staff. The turnout was not what the Board had hoped for, but it allowed for the Board to have an open dialogue. The staff filled in as Board members for those who had presentations. The Board gathered information regarding the issues pertaining to Southern California. Some of those issues had bearing on the FRAP Policy Statement and other issues that simply pertained to Southern California.

Mr. Gentry distributed a handout to all Board members regarding Introduced Legislation on various bills and their current status. He focused on:

- SB 646 – Kuehl – This bill would prohibit the State Board or a Regional Board from granting a waiver for a discharge into a water body that is identified as impaired pursuant to a provision of the Federal Clean Water Act.
- SB 725 – Morrow – This bill would provide that if a state or local public entity enacts or enforces a new land use regulation that restricts the use of private property or any interest therein and has the effect of reducing the fair market value of the property or interest by 25%, then the owner of the property or interest shall be paid just compensation, as specified, except with respect to certain land use regulations.
- SB 1086 – Migden and Machado – This bill would state the intent of the Legislature to enact legislation to regulate the timber harvest practice of clearcutting.
- AB 887 – Villines – This bill would provide that a timber-harvesting plan is effective for a period of not more than 10 years, unless extended as specified.
- AB 1705 – Keene – This bill would eliminate Christmas trees from the definition of “timberland,” and would specify that timberland does not include a parcel of land less than one acre, or a parcel of land less than 3 acres that was created under lead agency authority of a city and county, and the approval of which is subject to the California Environmental Quality Act (CEQA).

Mr. Gentry announced that there will be a California Licensed Forester's Association, CLFA, Annual meeting, which marks their 25<sup>th</sup> Anniversary on March 4, 2005 at the Sacramento Hilton. Mr. Gentry will be presenting a draft resolution, honoring CLFA on their 25<sup>th</sup> anniversary, which he read to the Board members. Mr. Gentry asked the Board if they would consider adopting this Resolution for presentation to CLFA at its Annual meeting.

**05-20-2**-Member Rynearson moved to adopt the resolution. Member Drinkard seconded the motion, and all were in favor.

### **REPORT OF FEDERAL AGENCIES: INCLUDING USDA FOREST SERVICE, NATIONAL MARINE FISHERIES SERVICE, US FISH & WILDLIFE SERVICE, AND US ENVIRONMENTAL PROTECTION AGENCY**

Nothing to report.

### **REPORT OF STATE AGENCIES: INCLUDING STATE WATER QUALITY CONTROL BOARD, DEPARTMENT OF FISH AND GAME, GEOLOGIC SURVEY**

Nothing to report.

## **DISCUSSION OF FOREST PRACTICE COMMITTEE RECOMMENDATIONS REGARDING LARGE, OLD, OR HERITAGE TREES**

Ms. Britting, Forest Practice Committee (FPC), commented that the Board recommended the Forest Practice Committee to take on several issues relating to Heritage Trees and the petition that was offered by Richard Geinger. The Committee has been working on this over the last six meetings and has developed a report for the Board of Forestry. Once the minor corrections have been made, they will make sure that it is posted on the website. The Committee recommends the package should go to the Board for consideration at April's Board meeting.

### **PUBLIC COMMENT**

Mr. Richard Geinger asked the Board to include in that package of recommendations the CDF's Guidance Memo.

## **DISCUSSION REGARDING THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) AND MANAGEMENT PLAN FOR JACKSON DEMONSTRATION STATE FOREST (JDSF)**

Mr. Gentry reported that they met yesterday to discuss the Administrative Draft EIR for Jackson State. In light of the fact that the Board does not have a deadline of July 31, 2005, some pressure has eased on the completion. Much of the Administrative Draft is complete and within the next few weeks they should have a complete Administrative Draft.

The next scheduled meeting of the Jackson Committee is March 21, 2005. At that time they may make any necessary alterations to the document. Once that has been completed it will be made available to the full Board and public.

## **REPORT OF THE ADVISORY COMMITTEES**

### **FOREST PEST COUNCIL**

Nothing to report.

### **RANGE MANAGEMENT ADVISORY COMMITTEE**

Mr. Gentry reported that the RMAC VMP Focus Group met last week. Additionally, RMAC's next meeting will be April 19 and 20, 2005, in the large conference room on the 15<sup>th</sup> floor.

### **MONITORING STUDY GROUP (MSG)**

Mr. O'Dell reported that their Committee has not met since last month's Board meeting. The next Monitoring Study Group will be April 7, 2005 in Willits at the Museum.

IIMP will be meeting March 14, 2005 in the large conference room on the 15th floor and they will be looking at roads.

## **PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)**

Mr. Huff, Executive Officer, Foresters Licensing, asked for Board approval for the following applicants who have met the requirements of the California Section of the Society for Range Management's Program for Certification of Professional Rangeland Managers pursuant to PRC §762. The individuals listed below successfully completed the CRM examination administered on October 15, 2004:

Mr. David G. Amme, CRM No. 87  
Mr. Michael P. Dolan, CRM No. 89  
Mr. Anthony Nelson, CRM No. 91

Mr. James L. Sullins, CRM No. 88  
Ms. Theresa A. Ward, CRM No. 90

**05-16-2**-Member Ryneanson moved to approve that certificates be issued to the above listed applicants. Member Nawi seconded the motion, and all were in favor.

Mr. Huff announced that the next Professional Foresters Examining Committee (PFEC) meeting will be held on March 23, 2005 at Humboldt State University.

## **FUEL HAZARD REDUCTION, 2004 - HEARING**

Mr. Chris Zimny, Regulations Coordinator opened the public hearing for the possible adoption of the proposed rule language for "Fuel Hazard Reduction Regulation", as noticed on February 14, 2005. Mr. Zimny reported that this rule has been in effect on an emergency basis since June 25, 2004 and is currently effective on an emergency basis until June 25, 2005.

Since September 3, 2005 the Board has been deliberating on a 45-Day notice public hearing adoption of the permanent rule. The hearing has been continued from November into January and into February. The Board continued that hearing and made its recommendation for edits to this regulation and a 15-day notice was put out with several changes that Mr. Zimny was going to highlight. The Regulation and 15-day notice was included in the Board members folder.

The first change was 1052.4 – (Beginning on page seven and eight, in the 15-day notice language). The change is in regard to the vegetation treatment permitted under the Emergency Notice, with original rules relating to thirty inches or less stump diameter. The Board and the 15-day notice proposed to amend the limitation and reduce the maximum limit to twenty-four inches stump diameter with exceptions permissible to thirty inches when determined by the RPF, e.g., tree removals are necessary to meet the Fuel Hazard reduction goals.

The second change was 1052.4(f)-language to the 15-day notice which is on page 9, option 1, regarding amendments to improve enforceability of the regulation regarding the issue of overlapping permits and the possibility/inability to enforce removal of trees larger than the diameter limits required by this regulation. To deal with that concern, language was added, which excludes the removal of diseased trees as part of other exemptions separate from this emergency notice from being removed concurrent under this operation. The effect is trying to address any complications or misinterpretation issues on larger trees being removed in the area of the emergency notice, where there is a limitation of diameters that can be removed.

The third change on the 15-day notice was related to additional technical information that was supplied to the Board to support the previous determination of this rule. The additional documents are listed on the 15-day notice. Posted on the website is a document that summarizes the cumulative effects analysis. The information was added to the record along with the technical document.

Mr. Zimny explained that those were the changes on the 15-day notice. Additionally, Mr. Zimny received, as requested by the Board, a preliminary letter from the Department of Fish and Game. In the absence of Dr. Berback, who prepared the letter for Fish and Game, Mr. Zimny summarized the contents of the letter on supporting the adoption of the rule if certain changes were to be implemented.

Member Nawi thanked Mr. Zimny for working on the 15-day notice. Additionally, he had a question regarding the provision on diameter, which is on page 8, line 3, regarding determination by the Registered Professional Forester (RPF), that larger trees can be removed if necessary to meet the fuel objectives that is stated on the regulation. The regulation itself does not indicate whether the RPF will be responsible for making that decision. Member Nawi asked if it was implicit in that it would be an RPF decision.

Mr. Zimny said it is not implicit and that Member Nawi is correct that the newly added rule language does not state, "an RPF shall prepare", but previous portions of the rule language specifically require the RPF to be involved.

#### Comments from the Department:

Mr. Dennis Hall, Deputy Chief, THP Administration, Forestry and Fire Protection, reported that the Department did submit a letter to the Board on concerns with the rule package. He thanked Mr. Zimny and said that he does support adoption of this rule. Additionally, he said that the 15-day notice did not incorporate many of the minor concerns and options that he wanted to comment on. The first option is the diameter class and said that the Department does still support the original language that was on the 45-day notice, but the language on option one regarding the reduced diameter would be enforceable. The other question was regarding the diseased trees and overlapping exemptions. The Department has been seeing issues regarding diseased trees. Mr. Hall evaluated existing emergency rules and all the other classes of emergencies that allow the removal of dead and dying trees. He feels that is a key to fuel hazard reduction. The Department's concern on diseased trees is that they may not pose a significant fire hazard. The proposed changes would remove some of the enforcement problems that the Department would anticipate and it would stay more in line with the existing emergency rules, so they provided that option for the Board's consideration and hope that it is adopted.

Member Ryneason said that the reason Mr. Hall asked for the 1038(b) exemption be excluded from the option of the overlay is because it's the Department's belief that they could use the other emergencies to either take out dead trees or dying trees that are going to die within a year.

Mr. Hall said that the option allows you to overlay the 1038(b) dead, dying and diseased on top of that emergency and that is expected. Large landowners have been dealing with dead, dying, diseased for their whole ownership. The Department wants to ensure that larger diameter trees are harvested under the 1038 in the same area that they are harvesting the fuel hazard emergency without a reasonable expectation that it would reduce fuel. The option still allows the harvest of dead and dying trees. It only limits the diseased trees to twenty-four inches.

Member Ryneason asked if it would allow a tree of any diameter that is either dead or dying under an emergency as compared to a 1038(b).

Mr. Hall said that it would allow removal of any diameter size under 1038B or an emergency. It only restricts the removal of disease trees under a 1038B.

There was further discussion.

Mr. Tom Suk, Lahontan Regional Water Quality Control Board, RWQCB, appreciated prior comments being implemented on 10-day notice. Additionally, he asked to include section F1-14 from Lake Tahoe Basin, which he helped the Board staff to write ten years ago. One of those rules, number 7, only allows sanitation salvage harvest and there is a broad consensus in the Basin that they need to allow some green tree thinning as part of these exemptions. They do want to allow for green tree harvest as part of the exemption. They are working closely with CDF to try to make that happen. Additionally, he asked that when the Board considers the 1038(i) exemption (AB2420), they would like to see the same language included.

Member Britting said section seven only applies to watercourse and lake protection zones (WLPZ).

Mr. Tom Suk said it does not allow for any timber harvesting in WLPZ, except sanitation salvage. They do want to allow some green tree thinning in those areas.

Member Britting asked if there were other regulatory requirements in the Tahoe Planning area that once an exemption is filed, that could further constrain that emergency condition or exempted activity.

Mr. Tom Suk said they would need to get a waiver and a Tahoe Regional Planning Agency, (TRPA) permit.

There was further discussion

Member Drinkard asked if Mr. Suk intends on working with someone to rewrite his exemption rule so he could address the section that is currently not working for him.

Mr. Suk, said that what they hope to achieve is to have the Forest Practice Rules fully compliant with Water Quality so they would not have to have waivers. If the Forest Practice Rules are deficient in any way, than they would need to use waivers to include additional conditions over and above the Forest Practice Rules.

Member Drinkard asked if he did not anticipate re-writing the language.

Mr. Suk responded by saying that he thought that exemption is fast becoming obsolete because it only allows the strict interpretation of 1038(f). Additionally, it only allows for sanitation salvage on parcels up to twenty acres. Folks at this time can file under 1038(i) for 300 acres and not have to follow any Tahoe rules at all. 1038(i) is the way people are going.

Member Rynearson asked that if you have a lot in the Lake Tahoe Basin of twenty acres or less and you want to do removal of dead, dying trees, would you have to go with a standard I. Also, would you have to go with that form or could you go with 1038(b), if you have a lot that is less than twenty acres.

Mr. Suk felt that was a question for CDF.

Member Marckwald asked if someone from the Department could come up with an appropriate solution for the Board to consider.

Mr. Duane Shintaku, Assistant Deputy Director, Forest Practice, Forestry and Fire Protection, said that it was a reasonable request and the Department is comfortable with what Mr. Suk is requesting.

It is the Department's understanding that TRPA is still going to be engaged and still is going to have a final say on what is appropriate in all cases, and the Department is assuming that the process is still effective and protecting the environment accordingly. To allow some form of green tree removal seems perfectly appropriate.

#### Public comment

Ms. Michele Dias, California Foresters Association, CFA, Vice President, Legal Affairs, commented that the California Foresters Association, CFA, opposes change on the maximum diameter limit from thirty to twenty-four inches. The current limit has proven to be effective as demonstrated to this Board on previous testimony and presentation. The changes do not appear to be necessary, given the status of the program project conducted today.

Mr. Dan Weldon, Forest Landowners of California, commented that he opposes reduction of diameter limit below thirty inches. Far fewer landowners will be motivated to undertake any thinning projects because it is not economically justified at twenty-four inches. Secondly, the environmental impacts would definitely impact family forest owners without the ability to use the fuel hazard reduction rule. Landowner's property will remain in a hazardous overstocked condition susceptible to wildfire.

Without the ability to use LaMalfa or the Board's emergency rule, they are left with a big fuel problem. Additionally, he said that they are looking at the Board for an equitable, economically viable program that they can use. They consider the Board's twenty-four diameter option to be a breach of trust to family forest owners across the State. He asked the Board members to consider thirty-inch diameter to be left intact.

Mr. Kevin Collins, Lompico Watershed Conservancy, commented that it would be useful to have more conventional language. The provision for housing density down to one structure per twenty acres seems likely that it will allow commercial scale operations to be conducted under an exemption. He feels that is a mistake. Most fire protection under residential property can be done within a few hundred feet of the property. He is also concerned with the WLPZ exemption regarding where it exists in the rule. Mr. Collins asked if he could get someone to clarify that point.

Mr. Chris Zimny, Regulations Coordinator, responded that on existing rule language 1038(b), the rule is adopting the operational provisions of 1038(b). Item nine addresses the operations in the WLPZ, no timber harvesting within the standard width and length of a protection zone, except sanitation salvage harvesting as defined in the Regulations. On completion of the operation, the area shall comply with stocking standards, stating. trees to be harvested shall be marked or under the supervision of an RPF prior to timber operations. Mr. Zimny said he only sees the requirement for sanitation salvage or removal of dead or dying trees. He did not see a Public Health and Safety reference.

Member Drinkard asked if there was anything under the Threatened and Impaired section.

Mr. Duane Shintaku, Assistant Deputy Director, Forest Practice, Forestry and Fire Protection, said that he could answer Member Drinkard's question. 916.9, section (s), page 73 of the Rules, states that no timber operations are allowed in the WLPZ, which would include falling, or within any ELZ or EEZ designated for watercourse or lake protection under emergency notices or exemption notices, except or hauling off on existing roads, road maintenance and operations conducted for public safety.

Mr. Glenn Gottschall, Registered Professional Forester, Forestry Consultant, conveyed a resolution by the Tuolumne County Board of Supervisors on the Emergency Notice for Fuel Hazard Reduction, Section 1052, Title 14 of the California Regulations. He read this Resolution to the Board members and also provided a copy as well.

The recommendation was to request the State Board of Forestry to support emergency rule language that will allow for easing of restrictions for small land owners to remove trees on their private property as provided by the public notice published on September 3, 2004.

Mr. Michael Olenchak, Clovis Unified Scholl District and Regional Learning Center, commented that a reduced trunk diameter from thirty inches to twenty-four inches would have a detrimental effect on his fuels reduction program. Keeping the size limit at thirty-inch stump diameter would make his project feasible, benefiting and protecting his site as well as adjacent property owners. He proposes that the Board adopt the original proposed language as stated in section 1052.4 as well as the establishment of the permanent rule.

Mr. Bill Key, California Licensed Foresters Association, CLFA, commented that he opposes changes and provisions in 1052. CLFA believes that it is unwise for the Board to take that kind of step regarding diseased trees. Additionally, he said what it would be doing is enacting a provision to explicitly retain diseased trees. The existing language under CCR1038(b) provides for the harvesting of large old trees in the exemption only under specified circumstances.

Mr. Paul Mason, Sierra Club, commended the Chairman and Mr. Gentry in taking the time to meet with Legislators in trying to work on some of the issues that have been impeding this process. Additionally, he said it was a worthwhile endeavor to try and improve the dynamics between the Legislature and the Board of Forestry. Mr. Mason also made a comment on the designated option regarding areas where there is excessive fuel buildup. Additionally, he also made a comment on the language on page eight, line one, which reads "less than twenty-four inches outside stump diameter".



On Option F, he said he does agree that it is important to look at ways to address that fundamental comment between the 1038(b) on the dead disease dying exemption, which allows harvest of trees of any diameter happening on the same geographical footprint as something where there is a diameter limit. He thinks that is a small step in trying to address that matter, but could also cause confusion.

Mr. Charles Greenlaw, Family Forest Land, Southern Lake County, reported that the twenty-four inch stump diameter has an escape clause that would allow up to thirty inches, but the clause is tied to Section 1052.1(e). He said that the escape clause is useless because of a defect in section 1052.1(e). That defect is that it entirely omits crown fuel from its list of fuel objectives. It only has understory fuels and surface fuels. Getting over twenty-four inches causes more harm than good. He commented that the Board should hold out for the whole thirty inches.

Ms. Jodi Frediani, CRFM, commented that she appreciates the need for the fuel reduction rule, but has some concerns about how it is proposed. She said that on 916.9(s) on WLPZ allows for operations to occur and she commented that the way it is written allows for an exemption in the WLPZ. Additionally, she said the Board rule allows for exemptions within 500 feet of legal structures within 500 feet of roads. Cumulative impacts of such a provision are outside the realm of something that should be allowed under an exemption and would have a CEQA problem. She also said that the option one language is an improvement over the existing language.

Mr. John Hofmann, Regional Council, commented that he supports the Emergency Rule. He indicated there are two reasons to remove large trees, one is economics and it has to be marginally economical for landowners. The other reason is to reduce the risk of wildfire. Surface fuel is only one element and crown fuel is the other element. If larger trees needed to be removed in order to reduce the risk of crown fires and carry it on to the community, they would be allowing this to be done. Mr. Hofmann asked for this to be looked at as a consideration, as the Board looks at whether thirty-inch diameter tree is really necessary. He encouraged the Board to work around communities and communities at risk.

**05-8-9** Vice Chair, Marckwald made a motion to close the public hearing. Member Bosetti seconded the motion. All Board members were in favor and the motion was carried unanimously.

Member Britting requested that Mr. Suk revisit the concern on the Tahoe Basin Rule. She would like the Board to make a decision today. She asked Mr. Suk that if 1-14 were left in place inclusive, could his Board accommodate that with a strong encouragement to come back and work with the Board to address the issues that they have in condition seven.

Mr. Suk said that they would be receptive to that solution. If the Board would adopt the language as noticed, including sub-section 7, then the Board would be in a position where they would be adopting the notice language without changes. Additionally, he thinks it is a good idea to go back and fix sub section seven. Mr. Suk indicated that within a month he could come back with consensus language. He would have no problem adopting the rule language as noticed as long as they would be able to come back and deal with language to fix sub-section seven. Mr. Suk inquired about the timeline on 1038(i).

Member Britting said that 1038(i) would be exhausted in May. At that time they would be able to include the language on the Tahoe Rules.

The Chairman asked the Regulations Coordinator to give information on the findings and other issues regarding the proposed rule language.

Mr. Zimny commented that as part of the adoption of the rule package and CEQA requirements findings must be made part of a notice of a decision. The Board members were presented with some draft findings that were included in the binder. As part of any eventual adoption of this regulation, he would suggest that those findings be considered and adopted appropriately or amended. Mr. Zimny briefly went over the findings, which were included in the folders that were entitled, "Notice of Decision Findings".

Member Nawi commented that the findings would be appropriate after the Board decides what exactly they are talking about regarding the rule language.

Mr. George Gentry said that findings must be adopted concurrently with adoption of the rule language.

Mr. Zimny commented that additional information was added to the record and that information was part of the cumulative effects analysis and additional adverse effects. In that document the Board outlined additional information on the scope of the project. Additionally, specific mitigation measures and other forest practice rules are highlighted that help the Board in making a determination of a less than significant adverse impact. Lastly, the document summarizes monitoring components.

Member Nawi addressed Mr. Shintaku on a question regarding a clause in the language on operations conducted for public safety. He said that one of the commenters said that fuel hazard reduction would fall in that public safety exception. Member Nawi asked Mr. Shintaku if that was his view as well.

Mr. Duane Shintaku, Assistant Deputy Director, Forest Practice, Forestry and Fire Protection, said that it was not the Department's view to make that as a general statement.

Member Nawi said that a comment was received on provisions of proposed section 1053.1(b). He said that the option is referenced in the proposed option one language. He said that this did not apply to crown fuels and wanted Mr. Zimny's comment.

Mr. Zimny said that crown treatment removal could be considered understory trees.

Member Bosetti asked for a clarification on description of regulatory findings and minor edits in wording.

Mr. Zimny responded that he would eliminate certain language. The Board is making a finding that there is an emergency condition in accordance with 4592 and those emergency conditions are "based on statements" and if it is appropriate that the Board is finding an emergency condition and clarifying exactly what that emergency condition is.

There was further discussion.

**05-8-9-**Vice Chair Marckwald made a motion for the Board to adopt the Fuel Hazard Reduction 2005 15-day notice as published February 15, 2005 with the language for option one on page six, line one as well as option one on page nine, line nineteen. Further adding that the Board make findings as circulated by the Regulatory Coordinator and to authorize the Regulations Coordinator to make sure all references to the emergency regulation are corrected, as well as findings pursuant to 4592 to reinforce the ongoing nature of the emergency condition and note other things as necessary to findings under 4592 and finally' request that the Regional Water Board work with the Chair of the Forest Practice Committee regarding possible changes to Tahoe rules. Member Britting Seconded the motion.

Member Nawi addressed a question to Vice Chair Marckwald regarding what Mr. Zimny said on 1052.1(e), where he thought he indicated a reference to crown fuels as well as understory and surface fuels. Member Nawi asked the Vice Chair if he would be acceptable in including that into the motion.

Vice Chair Marckwald was in agreement as long as counsel was in agreement.

**05-8-9-**Vice Chair Marckwald said that he would make that amendment to the motion and agreed to add the findings of the addition. Member Nawi seconded the motion.

Member Bosetti asked Vice Chair that in the motion on selecting option one, if he would include for clarity the reference of outside bark at stump diameter.

Vice Chair Marckwald said that would be consistent if it was added.

Member Bosetti commented that he was disappointed on not going with the thirty-inch diameter. Operational problems could develop from thirty to twenty-four inch diameters.

Member Ryneason commented the Board is taking away flexibility to the landowners. He is concerned with option 2 on taking a dead or dying tree over thirty inches under 1031(b), but not a diseased tree. There was further discussion.

Member Nawi felt that the motion was an appropriate way to proceed.

Vice Chair Marckwald made a reference to page 4, line 20 on adding a comma after understory fuel, deleting "and surface fuels", and inserting "and/crown fuels" and continuing to the end.

The Chairman called for a roll call vote:

Bosetti	Nay
Drinkard	Aye
Markckwald	Yes
Nawi	Aye
Ryneason	Nay
Britting	Aye
O'Dell	Nay
Dixon	Aye

Motion passed by a 5-3 vote.

#### **PRESENTATION OF THE 2004 GOLDEN TROWEL AWARD FOR EXCELLENCE IN ARCHAEOLOGICAL SITE STEWARDSHIP TO THE DEPARTMENT OF FORESTRY AND FIRE PROTECTION'S SAN DIEGO UNIT**

Mr. Daniel Foster, CDF, Resource Management Archaeology, provided the Board with a power point presentation focusing on the background of the Golden Trowel Award and the achievements of this year's recipients. This year a team was chosen rather than an individual in recognition of valuable contributions that team has made in fire Protection, but this isn't the first time that fire control personnel have been recognized. This year, the Golden trowel award is being presented to CDF's San Diego Unit, Unit Chief Charles Maner, Unit Forester Thom Porter and Battalion Chief Pete Scully for that team's innovation and leadership in protecting archaeological resources during wildland fire suppression activities. .

Mr. Foster provided the personal background of the Golden Trowel Award recipients and reviewed their accomplishments for the Board. Chairman Dixon and Mr. Foster presented this year's Golden Trowel Award to the San Diego Unit team.

Unit Chief Maner, Forester Thom Porter and Battalion Chief Pete Scully thanked the Board and CDF for the award and the honor.

#### **REPORT ON FUEL HAZARD REDUCTION EFFORTS UNDER THE WEAVERVILLE PTEIR**

Mr. Allen Robertson, Environmental Coordinator, Forester II, Environmental Protection, CDF, distributed a handout to all Board members on Fuels Reduction Program Timber Harvesting Plan. He reported that this has been under development for the last two years.

A Program Timberland Environmental Impact Report (PTEIR) reduces the cost of preparation of a Program Timber Harvesting Plan. Additionally, Mr. Roberston introduced Mr. Mark Lancaster, to the Board members to discuss the report.

Mr. Mark Lancaster, Consulting Forester, gave a presentation on developing a Program Timberland Environmental Impact Report (PTEIR). He said that this project would change the behavior of wildland fire. Additionally, he distributed the final report to all Board members.

Member Britting asked if surface fuel treatment was a prescription and if they built anything into the prescription.

Mr. Mark Lancaster said that the average flame length is four feet.

Member Rynearson asked how much could have fallen under Board's exemption.

Mr. Lancaster said that fifty percent would fall under the exemption.

Member Britting asked what was the cost of the plan that was necessary for the acreage.

Mr. Lancaster said \$100,000.00

Mr. Greg Blomstrom said that a lot of increase in cost would probably be associated not with an increase in acreage, but an increase in the number of communities you are trying to reach.

## **PRESENTATIONS AND DISCUSSION OF PERFORMANCE-BASED PILOT PROJECT PROPOSALS.**

Mr. Bill Keye, California Licensed Foresters Association, CLFA, distributed a handout on the outline of the presentation to Board members. Mr. Keye went over the Performance Based Pilot Project Proposals. The concern that CLFA has as professional foresters is they are not competitive leading to a loss of market share. If they are not competitive, it is not just a loss to CLFA, but it is a potential threat to the environment. Essentially, if they do not grow trees, they will be growing subdivisions. Mr. Keye said there is an added reason why they look to the Board for added leadership and that is so the forest products industry can be stabilized. He added that Government really needs to be a part of the solution on the idea that having a sustainable forestry in California is a good thing and how they can work to make it better.

Mr. Keith Greenwood, California Licensed Foresters Association, CLFA, gave a brief background on the Clean Water Act. Mr. Greenwood went over the rules and process of review. He explained that what they are proposing is a simpler objective and focusing the CEQA Project Review beyond land use and its associated management program, rather than operational activities. They have requested that the Board revise the Forest Practice Rule Requirements to evaluate performance rather than prescriptive standards.

Mr. Dennis Hall, Deputy Chief, THP Administration, Forestry and Fire Protection, went over a Proposed Performance Based Pilot for Application in Southern Forest District. Handouts were distributed to the Board members. Mr. Hall reported that he concurred with Mr. Greenwood's ideas. Among those ideas was that the Board needs to move to a Watershed Based approach to managing resources and that would be a key to getting any kind of performance based or BMP process to work. Mr. Hall reported that he believes that they have avenues in the rules to do that. Mr. Hall discussed this in detail. Mr. Hall wrote some rules from the Southern District and took the existing rules out of the rulebook. He suggested that it should go to the Forest Practice Committee for review.

Member O'Dell said that it was a great project.

Member Nawi was in agreement.

Chairman recommended taking these concepts and taking it to the Forest Practice Committee, FPC, for further development.

There was further discussion.

### **REPORT OF THE SENSITIVE WATERSHEDS NOMINATIONS REVIEW COMMITTEE (SWNRC)**

Member O'Dell reported that the Committee would be having a meeting on May 10, 2005 in Eureka at the American Title Company.

Member Nawi asked Mr. Gentry if there was any follow-up on a letter from the Sensitive Watershed Committee, claiming a conflict of interest, and recalled it was supposed to be brought back this month. He did not recall what the action was.

Mr. Gentry responded that he had a conversation with the Chairman and the determination was that given the structure, that they do not fall under definition of public officials as supplied by the Fair Political Practices Commission. It is not a binding decision. The ultimate decision regarding the Sensitive Watershed resides with the Board and no conflict of interest exists.

There was further discussion.

### **FOREST PRACTICE COMMITTEE**

Member Britting reported that the Committee reviewed the Emergency Condition. They also went over the La Malfa Fuel Reduction Exemption and worked productively with the Department and others to resolve some inconsistencies and issues and have a number of items that they will have to follow-up on. The hope is that the Committee will have language that they will be recommending in April to the Board for a 45-day notice. That will require that the Committee seek another emergency rule on La Malfa. They spoke briefly on the NTMP Proposal.

### **POLICY MANAGEMENT COMMITTEE**

Member O'Dell, Chairman of the Policy Committee, commented on this mornings report on the Board of Forestry matter relating to the FRAP report on issues regarding labor and safety issues. Additionally, the Committee reviewed the Joint Policy with the Fish and Game Commission and the Board on the Oak Woodlands matter.

### **ROADS AND WATERSHED MANAGEMENT COMMITTEE**

Member Ryneanson went over agenda items that were discussed in Committee. The first item that was discussed was the Road Rules Review Sub-Committee, which was chaired by Mr. Tom Spittler. They attempted to separate the Road Rules into four different sections. They also went over Performance Based Standards. The majority of the time was devoted to the Road Management Plan and nearly accomplished the goal of cleaning that review.

### **RESOURCE PROTECTION COMMITTEE**

Member Bosetti, Chairman of the RPC, went over the review of the Town of Hillsborough General Plan, which focused on fire safety elements. The Committee has a recommendation that will come forward after the presentation of the Regulations Coordinator. They also went over the effects of SB 1369. Mr. John Hofmann and Mr. Frank Stewart invited the Board staff to participate in a meeting that will be dealing with the Fire Safe Councils and is being sponsored by RCRC and is tentatively scheduled for May.

They will report back on when the meeting will be held and an overview on where this new law is headed as far as fire clearance. Additionally they had a topic under new and unfinished business that there is a meeting planned for tomorrow (March 10, 2005), which is a Stakeholders group that the Resource Protection Committee encouraged the Department to form to deal with the Fire Plan updates. The Committee also had a report from Mr. Mike Chapel.

## **DISCUSSION REGARDING THE CITY OF HILLSBOROUGH GENERAL PLAN SAFETY ELEMENT REVIEW**

Mr. Chris Zimny, Regulation Coordinator, distributed handouts to all Board members on the Town of Hillsborough's Safety Elements. Mr. Zimny referred to the document with the final revision of 3/1/05. This is what they were recommending to the Board today for adoption. The end result is twelve recommendations that the Board can adopt and it is vital that it gets out in a timely manner, because of the sixty day time certain date and that the Town is prepared for the adoption of those recommendations. Mr. Zimny went over the listed twelve recommendations.

**5-18-9-**Member Bosetti made a motion to approve and forward the letter to the Town of Hillsborough and submit as the Boards final comments to their Proposed General Plan Amendments. Member Ryneanson seconded the motion, and all were in favor.

The letter will be forwarded to the Town of Hillsborough and submitted as final comment

## **REPORT OF THE REGULATIONS COORDINATOR**

Mr. Chris Zimny, Regulations Coordinator, reported that the reports outlined the pending and in process regulations and referred to the calendar which was in the Board binder. Additionally, Mr. Zimny made a comment on the Transition Silviculture Rule and the SRA Classification, which the Board recommended for noticing last month. He apologized for not having it processed as recommended, but certainly will be processed in the month of March.

## **PUBLIC FORUM**

Mr. Richard Geinger, commented that there was an item that came up several times today regarding the PTEIR presentation. He said there needs to be a Cumulative Watershed Effects forum. He encouraged Board members on the reform process. Additionally, he announced that the Buckeye Project meeting would be held on April 7 and 8, 2005. On March 21, 2005, the Coho listing goes into effect.

Mr. Dennis Hall, Deputy Chief, THP Administration, Forestry and Fire Protection, announced that Central Coast is developing a general waiver and he has been reviewing the proposal. The Board can contact Central Coast to give a presentation on that matter.

## **NEW AND UNFINISHED BUSINESS**

Nothing to report.

## **ADJOURNMENT**

The Chairman adjourned the March 2005 meeting of the Board.

Respectfully submitted,

ATTEST:

George D. Gentry  
Executive Officer

Stan Dixon  
Chairman

Copies of the attendance sheets can be obtained from the Board Office.